

## Message Text

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R 132329Z JUN 75

FM SECSTATE WASHDC

TO AMEMBASSY KINSHASA

C O N F I D E N T I A L STATE 139339

E.O. 11652: GDS

TAGS: EINV, CG

SUBJECT: ACQUISITION OF GOZ PROPERTIES AND SETTLEMENT  
OF MOBIL OIL AND TEXACO COMPENSATION CLAIMS

REF: HINTON-MULCAHY LETTER, MARCH 19, 1975

FROM MULCAHY FOR HINTON

1. APPRECIATE YOUR INITIATIVE IN SEEKING MEANS FOR  
RESOLUTION OF MOBIL AND TEXACO CLAIMS SHOULD NEGOTIA-  
TIONS REACH IMPASSE AND THREATEN TO AFFECT ADVERSELY  
OTHER US INTERESTS IN ZAIRE. AS WE UNDERSTAND IT, YOU  
DESIRE AUTHORIZATION TO DISCUSS AD REFERENDUM WITH GOZ  
AND WITH MOBIL AND TEXACO REPS POSSIBILITY OF TRANSFER  
OF TITLE TO USG OF CERTAIN PROPERTIES COVERED BY MOBIL  
AND TEXACO CLAIMS AND/OR OTHER GOZ-OWNED PROPERTIES,  
WITH USG TO PAY THE COMPANIES A PRICE TO BE NEGOTIATED.

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PAYMENT WOULD BE CONTINGENT UPON CONGRESSIONAL AUTHORIZA-

TION AND APPROPRIATION. ARRANGEMENT WOULD ALSO BE RELATED TO OVERALL SETTLEMENT OF CLAIMS BETWEEN GOZ AND COMPANIES. ARRANGEMENT WOULD INVOLVE THREE COLLATERAL AGREEMENTS (USG-GOZ, USG-COMPANIES, COMPANIES-GOZ) WHICH WOULD NOT BE EXPLICITLY LINKED AND IN WHICH WE WOULD SEEK AVOID EXPLICIT IDENTIFICATION OF USG PAYMENT TO COMPANIES AS PARTIAL COMPENSATION PAYMENT, OR AS SUBSTITUTE THEREFORE, OR EXPLICIT USG ENDORSEMENT OF COMPENSATION AGREEMENT. WE UNDERSTAND THAT YOU WOULD USE REQUESTED AUTHORITY ONLY IF AND WHEN GOZ AND COMPANIES REACH IMPASSE AND BREAKDOWN OF NEGOTIATIONS APPEARS IMMINENT, BUT THAT AT SUCH TIME YOU WOULD WISH TO HAVE AUTHORIZATION IN HAND IN ORDER TO BE ABLE TO ACT QUICKLY.

2. L BUREAU IS NOT PREPARED TO CONCUR IN GRANT OF SUCH AD REFERENDUM AUTHORITY BASED ON ITS PRESENT UNDERSTANDING OF THE PROPOSAL AND OF THE SITUATION TO WHICH IT RELATES. FOLLOWING ARE QUESTIONS AND COMMENTS FRAMED BY L TO WHICH YOUR ANSWERS AND COMMENTS ARE REQUESTED BEFORE FURTHER CONSIDERATION IS GIVEN TO YOUR REQUEST FOR AUTHORIZATION:

A) A PRIMARY CONCERN RELATES TO EMBASSY CONFLICT OF INTEREST. EFFECT OF PROPOSAL WOULD BE TO PLACE EMBASSY IN POSITION OF ATTEMPTING TO NEGOTIATE BEST POSSIBLE PRICE FOR USG FROM COMPANIES. HOWEVER, IN EVENT USG REPRESENTS COMPANIES IN CLAIMS AGAINST GOZ, EMBASSY WOULD BE ATTEMPTING TO NEGOTIATE BEST POSSIBLE PRICE FOR COMPANIES. (SINCE PROPOSAL IS POSITED ON BREAKDOWN OF NEGOTIATIONS, WE CANNOT DISCOUNT LIKELIHOOD THAT EMBASSY WOULD BE REPRESENTING COMPANIES IN CLAIMS AGAINST GOZ.) CONFLICT OF INTEREST MAY ALSO BE PRESENT IN USG INTEREST TO SEE GOZ-COMPANY DISPUTE SETTLED AND USG INTEREST TO OBTAIN BEST POSSIBLE PRICE FOR PROPERTIES. HAVING THESE POINTS IN MIND, WE WOULD APPRECIATE EMBASSY VIEWS AS TO HOW IT ESTABLISHES VALUE OF PROPERTIES FOR POTENTIAL USG PURCHASE.

B) A SECOND CONCERN IS THAT PROPOSAL WOULD THRUST USG  
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TO FOREFRONT IN SETTLEMENT OF CLAIM AND TAKE PRESSURE OFF GOZ TO SETTLE. WE SEE THIS HAPPENING IN SEVERAL POSSIBLE WAYS. AS ONE EXAMPLE, WHEN GOZ LEARNS OF USG INTEREST IN PAYING FOR SOME OF EXPROPRIATED PROPERTIES, THEY MIGHT SIT BACK AND WAIT FOR USG-COMPANY ACCORD (PRESERVING ALL THEIR OPTIONS AS TO AMOUNT THEY WILL PAY TO COMPANIES FOR REMAINDER OF EXPROPRIATED PROPERTIES, AND FOR PROPERTIES BEING CONSIDERED IN USG-COMPANY

NEGOTIATIONS, IN EVENT THESE NEGOTIATIONS FAIL TO PRODUCE ACCORD). AS A SECOND EXAMPLE, IF USG-COMPANY AGREEMENT IS PRODUCED IN CONTEXT OF OVERALL GOZ-COMPANY SETTLEMENT, CONTINGENCIES OF CONGRESSIONAL AUTHORIZATION AND APPROPRIATION WOULD ENABLE GOZ TO AVOID OBLIGATIONS TO PAY DURING PERIOD THAT CONGRESSIONAL APPROVAL WAS NOT FORTHCOMING. CONCEIVABLY THIS COULD STRING OUT CASE FOR SEVERAL YEARS WITH ONUS ON USG.

C) WE FEAR A RESULT IN WHICH USG WOULD APPEAR TO HAVE PAID 100 CENTS ON THE DOLLAR ON CLAIMS, OR, IN ANY EVENT, PROPORTIONALLY HIGHER THAN GOZ WOULD PAY TO OIL COMPANIES. EVEN WITHOUT SUCH A RESULT, FOR THE REASONS SET OUT IN ABOVE PARAS WE FEEL SURFACING OF PROPOSAL WITH GOZ INVITES EXTENSIVE CONGRESSIONAL SCRUTINY.

D) WE HAVE AN ADDITIONAL CONCERN, IF USG CONSIDERS STEPPING IN TO PURCHASE EXPROPRIATED PROPERTY TO AID SETTLEMENT IN ONE CASE, ABOUT USG ROLE FOR OTHER AMERICAN CLAIMANTS IN CONTEMPORANEOUS OR SUBSEQUENT EXPROPRIATIONS. WE HAVE BEEN UNABLE TO FIND A SITUATION IN PAST IN WHICH WE HAVE PURCHASED EXPROPRIATED PROPERTY IN CONTEXT OF CLAIM SETTLEMENT. SOMEWHAT ANALOGOUS CASE THAT WAS RECENTLY CONSIDERED INVOLVED PROPERTY IN EAST BERLIN TO WHICH AMERICANS HAD TITLE BUT WHICH HAD EFFECTIVELY BEEN TAKEN. A PROPOSAL TO REDUCE SOME OF OUTSTANDING CLAIMS IN A USG PURCHASE FOR GOVERNMENT USE WAS REJECTED BECAUSE OF ATTENDANT DIFFICULTIES IN DETERMINING PRICE AND CHOOSING AMONG AMERICAN CLAIMANTS.

E) OUR THINKING CONCLUDES ALONG FOLLOWING LINES: THE PROPOSAL INVOLVES EITHER A SUBSTANTIAL AMOUNT IN THE CONFIDENTIAL

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CONTEXT OF THE OVERALL CLAIMS, OR A SMALL AMOUNT. IF THE FORMER, WE APPEAR TO BE PLACED IN THE TROUBLESOME POSITION OF SHOULDERING THE BURDEN TO PAY OFF A GOZ EXPROPRIATION. IF THE LATTER, THEN THE COMPANY AND GOZ POSITIONS CANNOT BE FAR APART, WHICH SUGGESTS THAT THE DIFFERENCES CAN BE NEGOTIATED OUT WITHOUT A QUESTIONABLE USG INVOLVEMENT. KISSINGER

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